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18 MAY 1993

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: BOBBIE JOE BOWDEN	§	Attorney Docket No. B-0106.01
Serial No.: 08/050,527	§	Examiner: To be assigned
Filed: April 19, 1993	§	
For: AUTOMATIC DRILLING SYSTEM	§	

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LICENSING & REVIEW

6/23/93

COMMISSIONER OF PATENTS
AND TRADEMARKS
Washington, D.C. 20231

Attn: Licensing and Review

PETITION FOR RETROACTIVE LICENSE TO EXPORT TECHNICAL DATA AND TO FILE A FOREIGN APPLICATION UNDER 35 U.S.C. §184

Sir:

In addition to the above referenced U.S. Patent Application, a corresponding patent application disclosing and claiming the invention of an AUTOMATIC DRILLING SYSTEM was filed on behalf of Bobbie Joe Bowden in Canada on April 19, 1993. No other foreign filings of the above-referenced U.S. Patent Application have occurred.

Applicant respectfully submits the subject matter contained in the U.S. and Canadian Patent Applications is of no interest from a security standpoint. The subject matter of the invention covers an automatic drilling system which regulates the release of the drill string of a drilling rig to ensure a maximum rate of borehole penetration through a formation. The automatic drilling system measures bit weight, drilling fluid pressure, drill string torque, and drill string RPM and controls the rate of release of the drill string in response to any one of, any combination of, or all of the above measurements to maintain the drill bit on the bottom of the borehole. That is, when the automatic drilling system registers a variance between one of the above measurements and its operator selected value, it releases the drill string until the measured value substantially equals the operator selected value. Applicant respectfully submits that the disclosure of subject matter relating to an automatic drilling system utilized primarily in the well

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drilling industry is not detrimental to the public safety and/or national security and, therefore, the granting of this petition is not barred under 35 USC §181.

Applicant further respectfully submits that the failure to procure the required foreign filing license in accordance with 37 CFR §5.11 occurred through error and without deceptive intent. As stated in the accompanying Declaration, the error arose due to Applicant's failure to seek patent protection until the public use statutory periods in both the U.S. and Canada had almost expired. Applicant delayed seeking patent protection until the end of the statutory periods to determine the marketability of his drilling system and also because he was not familiar with the statutory periods in the U.S. and Canada. Applicant did not wish to invest large sums of money in his system until he ascertained its commercial viability. Furthermore, Applicant marketed his system in Canada because persons in that country provided the largest market and also showed the greatest commercial interest. In fact, Applicant licensed his system to a Canadian corporation for $17,000.00, conditioned upon the filing of a Canadian Patent Application. Unfortunately, Applicant did not conclude his test marketing or negotiate his agreement with the Canadian corporation until nearly the end of the U.S. and Canadian public use statutory periods.

The undersigned attorney was engaged by Applicant in late March of 1993 to prepare a U.S. and a corresponding Canadian Patent Application. Both Applications had to be filed on or before April 19, 1993 in order to prevent public use statutory bars from abrogating Applicant's patent rights in those countries. Accordingly, it was impossible to complete the application and comply with 37 CFR §5.11 because of the limited time period between commencing the work and the expiration of both statutory time periods. Essentially, Applicant's Attorney could not procure a prospective foreign filing license for the U.S. Application because, if the filing of the Canadian Application had been delayed past April 19, 1993, Applicant would have lost his Canadian patent rights. Both the U.S. and Canadian Applications were filed on the

same day, in order to beat the statutory bars.

In addition, Applicant respectfully submits that no deceptive intent was involved in the filing of the Canadian Application, but rather, Applicant's late decision to obtain patent protection resulted in the proscribed foreign filing. If Applicant's attorney had not filed the Canadian Patent Application contemporaneously with the U.S. Application, Applicant would not only have lost his patent rights in Canada, but he would also have breached the terms of the Canadian license agreement. Accordingly, Applicant's attorney had no alternative except to file the Canadian Patent Application and then seek a retroactive foreign filing license under 35 USC §184. Furthermore, although Applicant has failed to procure the proper prospective foreign filing license, Applicant has diligently sought the granting of a retroactive license as evidenced by the filing of this Petition within one month of the proscribed foreign filing. Accordingly, Applicant respectfully submits the failure to procure a proper foreign filing license occurred without any deceptive intent and, further, occurred only due to the error of allowing insufficient time to file a U.S. Patent Application and then procure a prospective foreign filing license under 37 CFR §5.11.

Applicant, therefore, respectfully submits that the required showing under 35 USC §184 in accordance with 37 CFR §5.25 has been met, and, thus, Applicant respectfully requests the granting of a retroactive foreign filing license under 35 USC §184.

Applicant encloses the requisite fee of $130.00 under 37 CFR §1.17(h) with this Petition, which is submitted in triplicate.

Respectfully submitted,

LAW OFFICES OF DONALD R. COMUZZI
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DATE: May 18, 1993 By: _____
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ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING
I hereby certify that this paper and fee are being deposited with the United States Postal Service as Express Mail Post Office to Addressee service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231

Express Mail No. RB901394582U
Date 5-18-93